

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**BILLY SANCHEZ,**

**Plaintiff,**

**vs.**

**Civ. No. 07-1081 RHS**

**MICHAEL J. ASTRUE,  
Commissioner of Social Security,**

**Defendant.**

**ORDER GRANTING MOTION FOR ORDER AUTHORIZING ATTORNEY FEES**

THIS MATTER comes before the Court on Plaintiff's "Motion for an Order Authorizing Attorney Fees, with Supporting Memorandum" ("Motion"), filed April 6, 2010 [**Doc. 25**]. In his Motion, Plaintiff seeks authorization for attorney fees pursuant to § 406(b) in the amount of \$6,850.00 for 18.4 hours of legal services provided in this Court. Plaintiff's counsel indicates that if the Court grants the Motion, counsel will refund to Plaintiff "the EAJA ["Equal Access to Justice Act"] fees of \$3,026.60 and the filing costs of \$350.00, minus \$845.81 for gross receipts tax and \$152.46 in advanced costs for medical records." (Motion at 2). The Commissioner "declines to assert a position on the reasonableness of Plaintiff's request, as he is not the true party in interest." (Defendant's Response to Plaintiff's Motion at 1, filed Apr. 22, 2010 [**Doc. 26**] (citing Gisbrecht v. Barnhart, 535 U.S. 789, 798 n.6 (2002))).

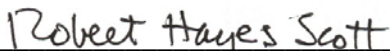
Plaintiff and his attorney have agreed that "[t]he attorney fees shall be \$7,000.00 or the applicable maximum amount set by the Commissioner or twenty-five (25%) of back benefits, whichever is less." (Addendum to Fee Agreement for Appeals Council and/or Federal Court Appeals, Ex. B, attached to Motion). The Court has authority to award fees arising from time expended by attorneys in actions pursued in Federal Court. See 42 U.S.C. § 406(b). However,

the maximum attorney fee allowable under § 406(b) may not exceed 25% of a claimant's past due benefits. See § 406(b)(1)(a); Gisbrecht, 535 U.S. at 795. The parties present evidence that Plaintiff was awarded \$55,400.00 in past due benefits. (See Notice of Award, Ex. A, attached to Defendant's Response to Court's Order for Clarification Regarding Motion for Attorney Fees, filed Jun. 8, 2010 [**Doc. 33**]). Thus, the fee amount requested by Plaintiff does not exceed the 25% maximum set under § 406(b). The Court concludes that a fee of \$6,850.00 is reasonable under 42 U.S.C. § 406(b)(1).

**WHEREFORE,**

**IT IS ORDERED** that Plaintiff's Motion for an Order Authorizing Attorney Fees, with Supporting Memorandum [**Doc. 25**] is **granted** and the Court authorizes attorney fees in the amount of \$6,850.00 for services before the Court.

**IT IS FURTHER ORDERED** that Plaintiff's counsel shall refund to Plaintiff \$3,026.60 in EAJA fees and the filing costs of \$350.00, minus \$845.81 for gross receipts tax and \$152.46 in advanced costs for medical records.

  
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ROBERT HAYES SCOTT  
UNITED STATES MAGISTRATE JUDGE